

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

LEANTHONY T. WINSTON,
Petitioner,
v.

HAROLD W. CLARKE,
Respondent.

Action No. 2:18cv577

ORDER

This matter is before the Court on a supplemental motion to dismiss LeAnthony Winston's ("Winston") *pro se* amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 122), Winston's motion for a temporary restraining order or preliminary injunction (ECF No. 127), motion for declaratory judgment (ECF No. 128), and motion pursuant to Rule 60(b) (ECF No. 129). The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. 636(b)(1)(B) and (C) and Rule 72 of the Local Civil Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed April 11, 2023, recommends that respondent's supplemental motion to dismiss (ECF No. 122), be granted, Winston's amended petition (ECF No. 59), be dismissed with prejudice, and Winston's motion for a temporary restraining order or preliminary injunction (ECF No. 127), motion for declaratory judgment (ECF No. 128), and motion pursuant to Rule 60(b) (ECF No. 129) be denied.

Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On May 5, 2023, the Court received Winston's objections to the report and recommendation. ECF No. 134. In addition, following the submission of the report and recommendation by the United States Magistrate Judge, Winston also filed a Motion for Judicial Notice and Trial on May 1, 2023. ECF No. 133.

The Court, having reviewed the record, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that respondent's supplemental motion to dismiss (ECF No. 122) be **GRANTED**, Winston's amended petition (ECF No. 59) be **DISMISSED WITH PREJUDICE**, and Winston's motion for a temporary restraining order or preliminary injunction (ECF No. 127), motion for declaratory judgment (ECF No. 128) and motion pursuant to Rule 60(b) (ECF No. 129) be **DENIED**. Furthermore, as Winston's Motion for Judicial Notice and Trial (ECF No. 133) raises the same claim as that in his Amended Petition (ECF No. 59 at 18), the Court **ORDERS** that the Motion (ECF No. 133) be **DENIED**.

The Clerk is **REQUESTED** to forward a copy of this Order to Winston and to counsel of record for respondent.

IT IS SO ORDERED.

May 12, 2023
Norfolk, Virginia

/s/
Robert G. Doumar
Senior United States District Judge
United States District Judge